intent of Congress in enacting the provision on fees for coupon redemption is documented in H.R. Rpt. No. 99–271, 99th Cong., 1st Sess., Page 158 (1985) and S. Rpt. No. 99–145, 99th Cong., 1st Sess., Pages 254 and 255. The Congress has noted in the reports the growing practice of financial institutions charging retail food stores fees for processing food stamp deposits. The Congress, while not wishing to impose an undue burden on financial institutions, notes its concerns in the reports that the practice could result in a decrease in the number of retail food stores authorized to redeem food stamps. This smaller pool of stores might adversely affect program recipients. Thus, in an effort to strike an equitable balance among the involved parties, Congress provided in Pub. L. 99–198 (section 1523) that financial institutions may not charge retail food stores for the deposit of food coupons that are submitted in a manner consistent with the requirement placed on these institutions when they present coupons to the Federal Reserve banks.

Pub. L. 99–198 requires that the Board of Governors of the Federal Reserve be consulted during the preparation of the rulemaking. Therefore, the Agency's designated liaison at the Federal Reserve was contacted. The conclusions of the consultation were confirmed in writing to the designated liaison and reflected in the rulemaking. Thus, the rulemaking does not spell out the specific requirements of the Federal Reserve for submission of coupons by financial institutions to Federal Reserve banks because the requirements are subject to change and the requirements of the various Federal Reserve banks are not the same. Each financial institution has the responsibility to inform retail stores wishing to redeem coupons of the Federal Reserve Deposit requirements in effect on that financial institution. The Congress did, however, clarify its intent in S. Rpt. No. 99–145, 99th Cong., 1st Sess. H.R. Rpt. No. 99–271, 99th Cong., 1st Sess. that cancellation of coupons prior to submission to Federal Reserve banks remain the responsibility of the financial institutions.

Accordingly, this action amends 7 CFR 278.5(a) (1) and (3) to specify the requirements relating to financial institutions, and the redemption and cancellation of coupons.

Implementation

For the reasons stated earlier in this preamble in the section entitled *Justification for Publishing as an Interim Rule Effective Upon Publication*, this action is effective upon publication with implementation by financial institutions no later than 10 days following publication.

List of Subjects in 7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, Groceries—retail, General line—wholesaler, Penalties.

Accordingly, 7 CFR Part 278 is amended as follows:

1. The authority citation for Part 278 continues to read as follows:

Authority: (91 Stat. 958 (7 U.S.C. 2011–2029))

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND FINANCIAL INSTITUTIONS

1. In § 278.5:

a. Paragraph (a)(1) is amended by adding a new sentence after the first sentence.

b. Paragraph (a)(3) is amended by adding a new sentence after the third sentence.

The additions read as follows:

§ 278.5 Participation of insured financial institutions.

(a) *Accepting coupons.* (1) * * * No financial institution may impose on or collect from a retail food store a fee or other charge for redemption of coupons that are submitted to the financial institution in a manner consistent with the requirements, except for coupon cancellation, for the presentation of coupons by the financial institution to the Federal Reserve banks. * * *

* * * * *

(3) * * * Retail food stores may not be required to cancel the coupons by the insured financial institution nor may the insured financial institution charge the retail food stores a fee or other charge for cancellation of coupons. * * *

* * * * *

2. In § 278.9, a new paragraph (d) is added to read as follows:

§ 278.9 Implementation of amendments relating to the participation of retail food stores, wholesale food concerns and insured financial institutions.

* * * * *

(d) The program changes of *Amendment No. 272* at § 278.5(a) (1) and (3) are effective upon publication of the amendment. Financial institutions must implement the provisions no later than April 21, 1986.

Dated: April 8, 1986.

Sonia F. Crow,

Acting Administrator.

[FR Doc. 86–8176 Filed 4–10–86; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Parts 925 and 944

Grapes Grown in a Designated Area of Southeastern California, and Table Grapes Imported Into the United States; Maturity and Pack Requirements for the 1986 Season and Each Season Thereafter

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes: (1) A higher maturity requirement for domestic and imported Flame Seedless grapes to improve the quality and flavor characteristics available to consumers; (2) A lower net fruit weight requirement for wrapped domestic grapes, than for unwrapped domestic grapes; (3) That current packing holiday requirements also apply to domestic grapes which are repacked; (4) April 15 rather than May 1 as the effective date of the 1986 domestic regulations since the 1986 crop is expected to mature earlier; and (5) An effective date of April 15, 1986, for imports of grapes except for imports of grapes arriving by ocean transport for which the effective date is April 19, 1986. The changes applicable to domestic grapes were recommended by the California Desert Grape Administrative Committee, the body which works with the Department in administering the Federal marketing order for California desert grapes. The changes applicable to grapes offered for importation are necessary under section 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: Effective Date: April 15, 1986. California Desert Grape Regulation 6 is applicable from April 15 through August 15, 1986, and Table Grape Import Regulation 4 is applicable from April 15 through August 15, 1986, except as noted for imports of grapes arriving by ocean transport. These regulations are applicable from May 1 through August 15 in each year thereafter.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this

action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules proposed thereunder, are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that about 22 handlers of California desert grapes are currently subject to regulation under the marketing order for California desert grapes and that approximately 50 importers of table grapes will be subject to this action under the table grape import regulation during the course of the current season and that the great majority of these groups may be classified as small entities. While regulations issued under this order and corresponding import requirements impose some costs on affected handlers and importers and the number of such persons may be substantial, the added burden on small entities, if present at all, is not significant.

The California desert grape regulation is effective during a specified portion of each season under the marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of table grapes grown in a designated area of southeastern California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), herein referred to as the "Act." The California Desert Grape Administrative Committee, established under the order, locally administers the marketing order program.

Table grape imports are covered under an import regulation which requires table grapes offered for importation to meet the same minimum grade, size, and maturity requirements as specified under the California desert grape regulation during the same specified period the domestic regulation is in effect. Grapes of the Emperor, Calmeria, Almeria, and Ribier varieties are exempt from import requirements because they are not regulated under the California desert grape regulation. The import regulation is effective under section 8e (7 U.S.C. 608e–1) of the Act.

The California and import table grape regulations require table grapes to meet the minimum grade and size requirements of U.S. No. 1 Table grade as specified in the United States Standards for Grades of Table Grapes (European or Vinifera Type) except that grapes of the Flame Seedless variety are required to meet the minimum berry size requirement of ten-sixteenths of an inch. In addition, fresh table grapes (domestic and imported) are required to meet the minimum maturity requirements for table grapes as specified in the California Administrative Code. These requirements are effective from May 1 to August 15 of each year, unless these dates are changed for good reason.

The California Desert Grape Administrative Committee met January 16, 1986, and recommended changes in the maturity and pack requirements for 1986 season table grapes grown in southeastern California. It also recommended that these changes, described in detail below, be effective April 15, 1986, so that all 1986 season fresh grape shipments are subject to regulation. Pursuant to section 8e of the Act, the table grape import regulation also must be changed to reflect the changes in maturity requirements and the earlier effective date for the 1986 season.

The Committee recommended that the minimum maturity standard for the Flame Seedless variety be the same as that currently in effect for the Thompson Seedless variety. Thompson Seedless is one of the major commercial varieties of grapes produced in the regulated area. Flame Seedless is a relatively new variety and increasing in importance. The committee believes that the maturity requirements for Flame Seedless grapes should be the same as those for Thompson Seedless grapes to help the Flame Seedless variety stay competitive with Thompson Seedless in the marketplace. Pursuant to section 8e of the Act, this change would also apply to Flame Seedless grapes offered for importation.

Currently, the Flame Seedless variety is considered mature if the grapes test not less than 16.5 percent soluble solids (i.e., the amount of sugar in the grape juice) or the juice contains soluble solids equal to or in excess of 20 parts to every part of acid contained in the juice. Under these requirements, Flame Seedless grapes would be considered mature with a lesser soluble solids percentage (e.g. 12 percent) as long as they meet or exceed the 20 to 1 sugar to acid ratio.

To ensure a more uniform flavor to consumers, the committee recommended that Flame Seedless grapes be considered mature if the juice of the grapes contains not less than 15 percent soluble solids, and the juice contains soluble solids equal to or in excess of 20 parts to every part acid contained in the juice. Under this regulation, if the soluble solids drop below the 15 percent level, the grapes will automatically fail to meet the maturity standards irrespective of the sugar to acid ratio.

The committee also recommended that the minimum net weight requirement for domestic grapes packed in standard containers be relaxed from 22 pounds to 20 pounds, if such grapes are wrapped in plastic or paper, or packed in plastic bags prior to packing. Standard containers hold about 22 pounds of grapes. Due to the wrapping material fewer bunches of grapes are able to be packed in a standard container and domestic handlers had a difficult time meeting the 22 pound net fruit requirement last season. Hence, a 20 pound net weight requirement for wrapped grapes is established.

The committee also recommended that packing holiday requirements established under the order also apply to repacked grapes. Handlers cannot pack grapes during such holidays (i.e. Saturdays, Sundays, and certain legal holidays). This is to avoid an oversupply of grapes in marketing channels early in the week. Last season, some handlers packed large quantities of grapes just prior to the packing holidays with the intent of repacking those grapes during the packing holidays. This action effectively defeated the purpose of the packing holiday requirements. Application of packing holiday requirements to repacked domestic grapes should stop handlers from circumventing these requirements. However, as currently provided, any handler may ship grapes during a packing holiday as long as such grapes were packed or repacked prior to such holiday and meet quality and other requirements in effect.

Finally, as noted earlier, the committee recommended that the 1986 domestic seasonal regulations become effective on April 15 rather than May 1 as currently provided in the continuing regulation. Field reports indicate that harvest of the 1986 desert grape crop will begin about two weeks earlier than usual.

Notice of these proposed changes for California desert and imported table grapes was contained in a proposed rule published in the **Federal Register** (51 FR 10218) on March 25, 1986. The notice invited interested persons to file comments on the proposed rule through April 4, 1986. Numerous comments were filed for and against the proposed effective date for imported grapes.

As proposed, the effective date of the 1986 import regulation was April 15,

1986 (the same as that for the domestic regulation), except that the effective date applicable to imports arriving by ocean transport was proposed to be May 1. The later effective date was to provide notice of proposed changes to importers and to recognize the transit time for grapes imported from Chile, the primary grape exporter to the United States.

A total of 75 comments were filed, and all but nine were opposed to the later effective date of the import regulation for Chilean grapes. Those opposing the later effective date (May 1, 1986) indicated that in the absence of regulation of Chilean grapes from April 15–May 1 imports of such grapes could be of substandard quality; i.e., lower than U.S. No. 1 Table, the minimum grade applicable to domestic grapes to be effective April 15. Commentors advanced the point that the domestic grape industry has sought to expand sales of grapes by maintaining a consistent product quality image in the marketplace. They indicated that the presence of lower quality imported grapes in the market with good quality domestic grapes could result in consumer dissatisfaction and reduced sales. These commentors contended that an earlier effective date would not limit imports of Chilean grapes meeting the prescribed minimum quality standards and that grapes can be reconditioned prior to importation if necessary to meet the minimum quality requirements.

Several comments from importers of Chilean grapes and associations representing Chilean grape exporters and importers supported the proposed May 1 effective date for regulations on Chilean grapes. They maintained that the Chilean grape exporters have taken into account the May 1 effective date, as specified in the continuing regulation, in planning their operations for the season.

The Chilean Ambassador to the United States requested that May 1 be established permanently as the effective date for imported table grapes regardless of how they arrive, that the date of arrival of Chilean table grapes, not the date of clearing Customs, be the date for determining whether or not section 8e import requirements would apply, and that the present weight and packaging requirements remain in effect.

The Ambassador pointed out that Chilean grape producers and exporters are making all necessary efforts to assure the American consumer of a product of the highest quality; i.e., a product which is in strict compliance with U.S. requirements in terms of quality, maturity, sanitary, and packaging conditions

Last year, the domestic grape regulation became effective May 3 and the grape import regulation became effective May 6. In order to assess the potential effect of a two-week delay in imposing import regulations on Chilean grapes, the Department reviewed USDA inspection certificates on Chilean grapes arriving at the ports of Philadelphia, Tampa, and Los Angeles during the period April 15 through May 1, 1985, a period when grape imports were not regulated. Such review indicated that about 75 percent of those grape imports from Chile would have failed to meet the minimum U.S. No. 1 Table grape grade. Thus, the contention that lower quality imports of Chilean grapes could occur and decrease grape sales in the absence of regulation has merit.

Each comment was carefully considered in reaching a final decision on this action. On the basis of the comments received, and other available information, it is determined that the effective date of the regulation for imported grapes shall be April 15, 1986, except that for imported grapes arriving by ocean transport the effective date of regulation shall be April 19, 1986, and that that is consistent with the notice requirements of section 8e of the Act requires that at least three days notice must be given prior to initiating import regulations. Moreover, imports of good quality Chilean grapes should not have no problem meeting the section 8e requirements. As pointed out earlier, they can be reconditioned if they initially fail.

A permanent effective date of May 1 for table grapes, as proposed by the Chilean Ambassador, would not be consistent with section 8e of the Act. The provisions of section 8e require table grapes offered for importation to meet the same or comparable grade, size, maturity, or quality requirements as those imposed on domestic table grapes regulated under the Federal marketing order. Hence, the import requirements must coincide with the beginning of the domestic shipping season. The beginning of the season fluctuates depending on growing conditions and can be earlier (like this season) or later than May 1. Hence, establishment of a permanent May 1 date would be inconsistent with the provisions of section 8e.

The Chilean Ambassador requested that the date of arrival, not the U.S. Customs Service release date, be the date used for determining whether or not section 8e import requirements apply. The term "importation" is defined in the regulations as release from custody of the U.S. Customs Service (§ 944.503(c)). Thus, this is the date that must be used in determining the date of importation and the date on which the import requirements will apply.

He also requested that the weight and packaging import requirements under section 8e remain intact. The import requirements for grapes control only the quality, grade, size, and maturity of the grapes offered for importation. The weight and packaging requirements specified in this rule are not applicable to imported grapes.

In view of the foregoing, the exceptions filed by the Chilean Ambassador, Chilean grape importers, and associations representing Chilean grape exporters and importers are denied.

The specified requirements for both California and imported table grapes will continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Although the seasonal regulations will be effective for an indefinite period, the committee will continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the California desert grape crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of California and imported table grapes would tend to effectuate the declared policy of the Act.

Findings. After consideration of all relevant information, including the proposal set forth in the notice and comments filed with respect thereto, it is hereby found that the following changes in the domestic and imported grape requirements, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is hereby further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) Shipments of 1986 crop grapes grown domestically are

about to begin; (2) to maximize benefits to domestic producers, this regulation should apply to as many shipments as possible during the marketing season; and (3) to assure the quality of imported grapes, the grape import requirements should apply April 15, 1986, to imports of grapes other than those arriving by ocean transport, and apply April 19, 1986, to ocean transport arrivals.

List of Subjects

7 CFR Part 925

Marketing agreements and orders, Grapes, California, Incorporation by reference.

7 CFR Part 944

Fruits, Import regulations, Grapes, Incorporation by reference.

PARTS 925 AND 944—[AMENDED]

1. The authority citation for 7 CFR Parts 925 and 944 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Therefore, §§ 925.304 and 944.503 and revised to read as follows:

§ 925.304 California Desert Grape Regulation 6.

During the period April 15 through August 15, 1986, and May 1 through August 15 of each year thereafter, no person shall pack or repack any such grapes on any Saturday or Sunday, or on the Memorial Day or Independence Day holidays of each year, unless approved in accordance with paragraph (e) of this section nor handle any variety of grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, unless such grapes meet the following requirements:

(a) *Grade, size, and maturity.* Such grapes shall meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type, 7 CFR 51.887 through 51.912), except that grapes of the Flame Seedless variety shall meet the minimum berry size requirement of ten-sixteenths of an inch, and shall be considered mature if the juice contains not less than 15 percent soluble solids and the soluble solids are equal to or in excess of 20 parts to every part acid contained in the juice in accordance with applicable sampling and testing procedures specified in sections 1436.3, 1436.5, 1436.6, 1436.7, 1436.12, and 1436.17 of Article 25 of the California Administrative Code (Title 3).

(b) *Container and pack.* (1) Such grapes shall be packed in one of the following containers, which are new and clean, and which otherwise meet the requirements of sections 1380.19(14), 1436.37, and 1436.38 of the California Administrative Code (Title 3):

(i) Sawdust pack with inside dimensions of 7¾ x 14 15/16 x 18⅝ inches, specified as container 28;

(ii) Polystyrene lug with inside dimensions of 6¾ x 12½ x 15⅜ inches, specified as container 38J;

(iii) Standard grape lug with dimensions in inches of 4½ to 8½ (inside) 13½ to 14½ (outside)×16⅝ to 17½ (outside); specified as container 38K;

(iv) Polystyrene lug with inside dimensions of 6¾ or 8¼ x 11½ x 18⅛ inches, specified as container 38Q;

(v) Grape lug with dimensions in inches of 4 to 7 inches (inside) x 15¾ (outside) x 19 1/16 (outside), specified as container 38R;

(vi) Such other types and sizes of containers as may be approved by the committee for experimental or research purposes.

(2) The minimum net weight of grapes in any such containers, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material, or packed in bags or wrapped in plastic or paper, and experimental containers, shall be 22 pounds based on the average net weight of grapes in a representative sample of containers. Containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers shall meet a net weight requirement of 20 pounds.

(3) Such containers of grapes shall be plainly marked with the minimum net weight of grapes contained therein (with numbers and letters at least one-fourth inch in height), the name of the variety of the grapes and the name of the shipper.

(4) Such containers of grapes shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, except that such requirement shall not apply to containers in the center tier of a lot palletized in a 3 box by a 3 box pallet configuration.

(c) *Organically grown grapes.* Organically grown grapes (defined to mean grapes which have been grown for market as natural grapes by performing all the normal cultural practices, but not using any inorganic fertilizers or agricultural chemicals including insecticides, herbicides, and growth regulators, except sulfur) need not meet the minimum individual berry size requirements of this section if the following conditions and safeguards are met: (1) The handler of such grapes has registered and certified with the committee on a date specified by the committee the location of the vineyard, the acreage and variety of grapes, and such other information as may be needed by the committee to carry out these provisions; (2) each container of organically grown grapes bears the words "organically grown" on one outside end of the container in plain letters in addition to requirements specified under paragraph (b)(3) of this section.

(d) *By-product grapes.* The handling of grapes for processing (raisins, crushing and other by-products) is exempt from requirements specified in paragraphs (a), (b), and (c) of this section if the committee determines that the person handling such grapes has secured the appropriate permit or order from the County Agricultural Commissioner, and the by-product plant or packing plant to which the grapes are shipped has adequate facilities for commercial processing, grading, packing or manufacturing of by-products for resale.

(e) *Suspension of packing holidays.* Upon approval of the committee, the prohibition against packing or repacking grapes on any Saturday or Sunday, or on the Memorial Day or Independence Day holidays of each year, may be modified or suspended to permit the handling of grapes provided such handling complies with procedures and safeguards specified by the committee.

(f) Certain maturity, container, and pack requirements cited in this regulation are specified in the California Administrative Code (Title 3) and are incorporated by reference. Copies of such requirements are available from Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5697. They are also available for inspection at the office of the Federal Register Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they existed on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.**

(g) The Federal or Federal-State Inspection Service, F&V, AMS, USDA, is the governmental inspection service for certifying the grade, size, quality, and maturity of table grapes grown in the production area. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspections and certification of fresh fruits, vegetables, and other products (7

CFR Part 51); except that all persons who request such inspection and certification must provide adequate facilities in which the inspections may be conducted and also provide the necessary equipment and incidental supplies that are considered as standard requirements for providing fresh inspection under Federal or Federal-State inspection procedures.

§ 944.503 Table Grape Import Regulation 4.

(a)(1) Pursuant to section 8e of the Act and Part 944—Fruits, Import Regulations, the importation into the United States of any variety of vinifera species table grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, is prohibited unless such grapes meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table grade, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type, 7 CFR 51.880 through 51.912), except that grapes of the Flame Seedless variety shall meet the minimum berry size requirement of ten-sixteenths of an inch, and shall be considered mature if the juice contains not less than 15 percent soluble solids and the soluble solids are equal to or in excess of 20 parts to every part acid contained in the juice in accordance with applicable sampling and testing procedures specified in sections 1436.3, 1436.5, 1436.6, 1436.7, 1436.12, and 1436.17 of Article 25 of the California Administrative Code (Title 3).

(2) Such minimum maturity standards are incorporated by reference, copies of which are available from Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5697. They are also available for inspection at the office of the Federal Register Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

(3) All regulated varieties of grapes offered for importation during the 1986 season other than those arriving by ocean transport shall be subject to the grape import requirements effective April 15, 1986, through August 15, 1986, and ocean transport arrivals in 1986 shall be subject to the requirements during the period April 19, 1986, through August 15, 1986. In 1987, and every year thereafter, all regulated varieties of grapes offered for importation shall be subject to the specified import requirements effective May 1 through August 15.

(b) The Federal or Federal-State Inspection Service, F&V, AMS, USDA, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of table grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of table grapes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR part 51) and in accordance with the Procedure for Requesting Inspection and designating the Agencies to Perform Requested Inspection and Certification (7 CFR 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

Dated: April 9, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–8263 Filed 4–9–86; 4:20 pm]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Modification of General Design Criterion 4 Requirements for Protection Against Dynamic Effects of Postulated Pipe Ruptures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is modifying General Design Criterion 4 (GDC–4) of Appendix A, 10 CFR Part 50 to allow use of leak-before-break technology for excluding from the design basis the dynamic effects of postulated ruptures in primary coolant loop piping in pressurized water reactors (PWRs). The new technology reflects an engineering advance which allows simultaneously an increase in safety, reduced worker radiation exposures and lower construction and maintenance costs. Implementation will permit the removal of pipe whip restraints and jet impingement barriers as well as other related changes in operating plants, plants under construction and future plant designs. Containment design, emergency core cooling and environmental qualification requirements are not influenced by this modification.

EFFECTIVE DATE: May 12, 1986.

ADDRESSES: Copies of the written public comments are available for public inspection and copying for a fee at the NRC Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John A. O'Brien, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 443–7854.

SUPPLEMENTARY INFORMATION: On July 1, 1985, the Commission published a proposed amendment to General Design Criterion 4 of Appendix A, 10 CFR Part 50 relating to dynamic effects resulting from postulated pipe ruptures in primary coolant loop piping in pressurized water reactors. (50 FR 27006) The proposed rule was based on investigations performed by industry and by the NRC as well as the staff findings in the resolution of Unresolved Safety Issue (USI) A–2. Future rulemaking was discussed in which application of the new technical approach would be extended to all reactor piping in all reactor types at some later date provided adequate technical justification can be supplied for each new application. The new technical approach depends on advanced fracture mechanics and includes investigations of potential indirect failure mechanisms which could lead to pipe rupture. Acceptable technical procedures and criteria are defined at length in NUREG–1061, Volume 3, dated November 1984 and entitled "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee, Evaluation of Potential for Pipe Breaks."

The proposed rule permitted a 60-day comment period. Twenty-four written comments were received from utilities, reactor vendors, architect-engineering firms, an intervenor, and industry groups representing as many as twenty-six utilities. Twenty-three of the written comments endorsed either the rule or the intent of the rule. The intervenor, alleging erroneous leak rate estimations,

opposed the rule. A compilation of the seven issues raised as a result of public comment, the accompanying Commission response and one additional issue raised as a result of oral comments made during an ACRS subcommittee meeting on May 23, 1985 follow:

Issue 1. The rule should be expanded to include piping in PWRs other than the primary coolant loop piping, and in addition, should cover piping in boiling water reactors (BWRs).

Commission Response: The Commission plans to publish in 1986 a broader proposed amendment to GDC–4 which would include all piping in all light water reactors (LWRs), as well as piping in gas and metal cooled reactors. The two-step approach was adopted because safety and economic benefits could immediately be obtained by an amendment limited to the primary coolant loops of PWRs. Sufficient technical information had been developed to justify application of leak-before-break technology to PWR primary coolant loop piping, and the decision was made to prepare a limited scope rule addressing the case which could be defended by the existing evidence.

Issue 2. The supplementary information to the rule should state that the amendment permits redesign of PWR primary coolant loop heavy component supports to reflect the exclusion of dynamic effects resulting from postulated pipe ruptures in primary coolant loops of PWRs.

Commission Response: This comment is accepted. The first sentence of the Scope of Rulemaking section in the proposed rule stated that (among other things) the dynamic effects of pipe rupture include "pipe break reaction forces". Because heavy components support design is determined, in part, by the imposed reaction forces, the elimination of postulated pipe rupture dynamic effects thus allows for a redesign of these supports. Supports, of course, must be able to withstand all remaining loads, including those due to the safe shutdown earthquake, with an acceptable margin of safety.

The Scope of Rulemaking section in the proposed rule also stated that:

> Current design margins in the primary coolant loop heavy component supports are to be maintained. Existing heavy components supports designed for the dynamic effects of pipe ruptures and seismic events are not affected. New plants will be designed with supports which have margins comparable and equivalent to those margins now present.

The intent of these three statements was to insure that component supports would still be designed with a margin of safey. The second sentence inadvertently became a discussion of the supports themselves rather than margins associated with the supports. The corrected statement is "Margins in existing heavy component supports designed for the dynamic effects of pipe rupture and seismic events are not affected." If the loads are revised by elimination of postulated pipe ruptures, the supports can be redesigned accordingly without affecting margins. Prohibiting heavy component support redesign would go beyond the guidance provided by the Advisory Committee on Reactor Safeguards (ACRS) that "Any relaxation of requirements to cope with double-ended guillotine break should be preceded by vigorous reexamination of the integrity of heavy component supports under all design conditions." The ACRS guidance has been interpreted to mean that heavy component supports must have adequate margins such that their failure will not be the cause of pipe rupture in primary coolant loop piping of PWRs.

The concern with heavy component support integrity stems from studies performed under subcontract to Lawrence Livemore National Laboratory (LLNL) which indicated that heavy component support failures during earthquakes were the dominant mechanism for causing a double-ended pipe rupture in primary coolant loop piping. However, as reported in Volume 1 of NUREG/CR–3660, "Probability of Pipe Failure in the Reactor Coolant Loops of Westinghouse PWR Plants", dated July 1985, and Volume 1 of NUREG/CR–3663, "Probability of Pipe Failure in the Reactor Coolant Loops of Combustion Engineering PWR Plants", dated January 1985 (each prepared by Lawrence Livermore National Laboratory) only extremely large decreases in heavy component support seismic capacity have a significant impact on the probability of pipe ruptures in primary coolant loop piping. As a consequence, the Commission has decided that redesign of heavy component supports can be accepted so long as reliability and adequate margins under each required design and service load condition is achieved.

For operating plants, it is expected that a majority of heavy component support redesigns may involve elimination or decrease in load rating of existing snubbers in one or more support load paths. Redesign means the necessary reanalysis of supports and associated calculation of margins (excluding the dynamic effects of postulated pipe breaks as one of the required imposed loads) together with the physical modification of support configuration and hardware. In such redesigns, the licensee must demonstrate improved overall system performance and reliability when the existing component support loads paths are compared with those proposed. Utilities undertaking heavy component support redesign should also consider the use of independent design and fabrication verification procedures to minimize the potential for design and construction errors.

Plants under construction will be treated in the same manner as operating plants. For future plants, heavy component supports would be designed under faulted condition loads to the specified allowable stress limits, with the dynamic effects of postulated large diameter pipe breaks excluded.

In the context of this issue, the term "heavy component" means the reactor pressure vessel, the steam generators, the pressurizer and the reactor coolant pumps. However, with respect to the pressurizer, the pressurizer surge line and other piping directly connected to the pressurizer are still postulated to rupture for design purposes, under the limitations of this rule.

Issue 3. The rule should be extended to relax pipe rupture requirements for containment design, emergency core cooling system performance and environmental qualification of electrical and mechanical equipment.

Commission Response: The Commission acknowledges that this rulemaking will introduce an inconsistency into the design basis by excluding only the dynamic effects of postulated double-ended pipe ruptures in PWR primary coolant loops while retaining this postulated accident for emergency core cooling systems, containments and environmental qualification. The present view is that insufficient technical information is available for applying leak-before-break technology to other aspects of facility design. Further studies must be conducted to develop suitable replacement criteria for the PWR primary coolant loop doubled-ended pipe rupture if this accident is no longer required for containment design, emergency core cooling or environmental qualification. For the present, the proposed rule allows the removal of plant hardware which it is believed negatively affects plant performance, while not affecting emergency core cooling systems, containments, and environmental qualification of mechanical and electrical equipment.

Issue 4. The supplementary information to the rule should indicate

what analyses are needed to take advantage of the relaxation of requirements associated with dynamic effects of postulated pipe ruptures in the primary coolant loops of PWRs. Also, the acceptance criteria used in evaluating these analyses should be defined, particularly with regard to what would qualify as an "extremely low probability" of pipe rupture.

Commission Response: Acceptable analytical procedures and criteria to take advantage of this rule are outlined in NUREG–1061, Volume 3, dated November 1984 and entitled "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee, Evaluation of Potential for Pipe Breaks." Plant unique analyses are required to take advantage of this final rule. Licensees and applicants can rely on vendor calculated envelopes to demonstrate that their plants meet NRC requirements. Additionally, it must be shown that appropriate leakage detection devices are installed, and that any modifications as discussed in Issue 2 are clearly defined. After final publication of this rule, value/impact analyses would no longer be required as they were only necessary to justify exemptions from the original GDC–4 before this final rule is published. NRC acceptance criteria are illustrated in the Safety Evaluation Report prepared for near-term-operating-license applicants (for example, see those prepared for Vogtle or Catawba) and published in response to their exemption requests related to PWR primary coolant loop piping.

The definition of "extremely low probability" of pipe rupture is given as of the order of 10^{-6} per reactor year for PWR primary coolant loop piping when all pipe rupture locations are considered. This is consistent with past NRC decisions relating to other postulated events. This value, which includes the probability of an initiating event occurring (such as an earthquake, abnormal transient or an accident), conforms with the implicit design goal of components and structures that are engineered on a deterministic basis. Research performed at Lawrence Livermore National Laboratory confirmed that the three major U.S. vendors of pressurized water reactors meet this requirement.

Industry criteria for applying leak-before-break to piping are in the proposal stage (see ANS–58.2, "Design Basis for Protection of Light Water Nuclear Power Plants Against Effects of Postulated Pipe Rupture"). These proposed criteria have not been formally accepted by the industry nor the Commission. However, NRC staff are participating in this activity.

Issue 5. The supplementary information to the rule should state that modifications of the licensed configuration of operating plants by the removal of pipe whip restraints and jet impingement shields may or may not involve an unreviewed safety question. Also, the rule should indicate that modifications consisting of removal of pipe whip restraints and jet impingement shields may not require license amendments.

Commission Response: These comments are accepted. The discussion in the proposed rule was confusing on this matter. The guidance below should be followed in the licensing context.

Modifications of the licensed plant design of operating plants may involve an unreviewed safety question under 10 CFR 50.59. Where it is determined that an unreviewed safety question is involved, licensees of operating plants desiring to make modifications should submit a license amendment for NRC approval in accordance with revised General Design Criterion 4. The license amendment may also include provisions for an augmented leakage detection system. A simple removal of pipe whip restraints and jet impingement barriers would not involve an unreviewed safety question. However, changing support load path designs would involve an unreviewed safety question.

Applicants for operating licenses seeking to modify design features to take advantage of the rule are required to reflect the revised design in an amendment to the pending FSAR. If the design change modifies design criteria set forth in the PSAR, an amendment to the applicable construction permit may also be necessary. The amendment to the FSAR, and the application for amendment of the construction permit if necessary, may include provisions for augmented leakage detection.

Issue 6. Installed leakage detection systems at some plants may be adequate, and upgrading or improvements may not be needed.

Commission Response: This comment is accepted. The proposed rule notice stated: "The license amendment *shall* also include provisions for an augmented leakage detection system. . . ." The revised text relating to this matter is given in the Commission Response to Issue 5. Leak detection systems are discussed in Volume 3 of NUREG–1061 "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee, Evaluation of Potential for Pipe Break", November 1984.

Issue 7. Leak-before-break technology depends on erroneous leak rate measurements and therefore cannot be applied to the reactor coolant system.

Commission Response: The NRC staff recognizes that the measurement or determination of leakage rates from a pressurized system involves uncertainties. For this reason, one criterion for application of leak-before-break is that postulated flaw sizes be large enough so that the leakage is about ten times the leak detection capability, and that this flaw be stable even if earthquake loads are applied to the pipe in addition to the normal operating loads. This margin of a factor of ten is more than ample to account for uncertainties in both leakage rate calculations and lead detection capabilities.

Additional sensitivity studies reported by Lawrence Livermore National Laboratory in NUREG/CR–2189, dated September 1981, entitled "Probability of Pipe Fracture in the Primary Coolant Loop of a PWR Plant" indicate that even in the absence of leak detection, the probability of pipe ruptures in PWR primary coolant loop piping is sufficiently low to warrant exclusion of these events from the design basis.

For these reasons, the Commission has determined that this issue is not sufficient basis to invalidate leak-before-break technology in PWR primary coolant loop piping.

Comment of the Advisory Committee on Reactor Safeguards (ACRS)

The ACRS orally requested an explicit definition of "primary coolant loop piping in pressurized water reactors" to clarify exactly the scope of affected piping. The term "primary coolant loop piping in pressurized water reactors" means the large diameter, thick walled piping directly connecting the reactor pressure vessel, the steam generators and the reactor coolant pumps. No branch piping from the above defined piping is considered part of the primary coolant loop piping in pressurized water reactors.

Having considered all of the above, the Commission has determined that a final rule be promulgated. The text of the final rule is identical to the text of the proposed rule. The final rule should be applied consistently with the guidance in this notice.

Availability of Documents

1. Copies of NUREG–1061, Volume 3, NUREG/CR–3660, NUREG/CR–3663 and NUREG/CR–2189 may be purchased by calling (202) 275–2060 or (202) 275–2171 or by writing to the Superintendent of

Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

2. ANS–58.2, "Design Basis for Protection of Light Water Nuclear Power Plants Against Effects of Postulated Pipe Rupture," is available from The American Nuclear Society, 555 North Kensington Avenue, La Grange Park, Illinois 60525.

3. ACRS Letter to William J. Dircks, NRC Executive Director of Operations, dated June 14, 1983, dealing with fracture mechanics, is available in the NRC Public Document Room.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. Although certain existing plant hardware may not be reinstalled after removal for inspection, this will not alter the environmental impact of the licensed activities. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from John A. O'Brien, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 443–7854.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150–0011.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from John A. O'Brien, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 443–7854.

Backfit Rule

This amendment is not subject to the analysis requirements of 10 CFR 50.109(a)(3) because it does not require any modifications of existing facilities or procedures. The rule only permits licensees to exercise an option not previously available. Information relevant to the factors found in 10 CFR 50.109(c) may nevertheless be found in the Regulatory Analysis referenced above.

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definitions of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In Appendix A, General Design Criterion 4 is revised to read as follows:

Appendix A—General Design Criteria for Nuclear Power Plants

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Criteria

I. Overall Requirements

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Criterion 4—Environmental and missile design bases. Structures, systems, and components important to safety shall be designed to accommodate the effects of and to be compatible with the environmental conditions associated with normal operation, maintenance, testing, and postulated accidents, including loss-of-coolant accidents. These structures, systems, and components shall be appropriately protected against dynamic effects, including the effects of missiles, pipe whipping, and discharging fluids, that may result from equipment failures and from events and conditions outside the nuclear power unit. However, the dynamic effects associated with postulated pipe ruptures of primary coolant loop piping in pressurized water reactors may be excluded from the design basis when analyses demonstrate the probability of rupturing such piping is extremely low under design basis conditions.

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Dated at Washington, DC, this 7th day of April 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86–8192 Filed 4–10–86; 8:45 am]

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